

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**Petition of BNE Energy Inc. for a
Declaratory Ruling for the Location, Construction
and Operation of a 3.2 MW Wind Renewable
Generating Project on New Haven Road in
Prospect, Connecticut (“Wind Prospect”)**

Petition 980

March 30, 2011

**PETITIONER’S OBJECTION TO FAIRWINDCT, INC.’S MOTION FOR
COUNCIL TO ISSUE SUBPOENA**

The petitioner, BNE Energy Inc. (“BNE”), submits this objection to FairwindCT, Inc.’s (“Fairwind”) motion for the Council to issue a subpoena to Michael Guski, Principal of Epsilon Associates (“Epsilon”), dated March 29, 2011.

Fairwind requests that the Council issue a subpoena directing Mr. Guski to appear to testify at the March 31, 2011 evidentiary hearing in this proceeding, and to bring with him “any and all documents from the Epsilon file” relating to this proceeding. Fairwind apparently ignores the comments of the Council during the discussion of Fairwind’s most recent motion for the council to issue a subpoena, dated February 25, 2011. Members of the Council noted that Fairwind can issue subpoenas itself, and therefore the Council declined to do so on Fairwind’s behalf.

Fairwind now moves the Council to subpoena yet another non-participant in this proceeding on Fairwind’s behalf. Epsilon, like GE Energy (the subject of Fairwind’s February 25, 2011 motion), is not a participant in this proceeding.¹ Epsilon is simply a third party consultant retained by the Council in accordance with its statutory discretion – it is not

¹ BNE notes that, after the Council’s ruling on Fairwind’s previous motion to issue subpoena dated February 25, 2011 for GE Energy, Fairwind has never actually issued a subpoena to GE Energy or any of its representatives. Fairwind’s failure to do so clearly indicates that that motion, along with this one, are merely procedural posturing by Fairwind.

a developer or proponent of BNE's proposed wind renewable generating project. To the best of BNE's knowledge, the Council's contract with Epsilon indicates that information exchanged between the Council and Epsilon is confidential.

Fairwind's argument that Epsilon must be subjected to cross-examination regarding its work for the Council so that this evidence could then be produced as part of the record in this petition "is necessary for the Council's full and fair consideration of BNE's proposal" holds no water. Given that Epsilon is the Council's own consultant, the Council is already aware of "the work performed by Epsilon for the Council" and "any conclusions reached and recommendations made by Epsilon."

The Council has never issued a subpoena or required its own consultants to testify at proceedings and be subject to cross-examination. Fairwind is essentially attempting to force the Council to reveal its internal deliberations and decision-making. To grant this request would be to set a bizarre precedent for other proceedings going forward.

This motion represents yet another misguided attempt by Fairwind to dictate who the participants to this proceeding may or should be. Epsilon is simply a third party consultant to the Council and the Council should not be compelled to force Epsilon to open its entire file and to be hauled into a hearing to testify and be subject to cross-examination.

WHEREFORE, BNE requests that the Council deny Fairwind's motion for the Council to issue a subpoena to Epsilon to testify at the proceedings in this matter and provide all materials in its possession.

Respectfully Submitted,

By: /s/ Carrie L. Larson
Attorney For BNE Energy Inc.
Carrie L. Larson, Esq.
clarson@pullcom.com
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Ph. (860) 424-4312
Fax (860) 424-4370

Certification

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

Mayor Robert J. Chatfield
Town Office Building
36 Center Street
Prospect, CT 06712-1699

Jeffrey Tinley
Tinley, Nastri, Renehan & Dost LLP
60 North Main Street
Second Floor
Waterbury, CT 06702

Thomas J. Donohue, Jr.
Killian & Donohue, LLC
363 Main Street
Hartford, CT 06106

John R. Morissette (electronic format only)
Manager-Transmission Siting and Permitting
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Christopher R. Bernard (electronic format only)
Manager-Regulatory Policy (Transmission)
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Joaquina Borges King (electronic format only)
Senior Counsel
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Nicholas J. Harding
Emily A. Gianquinto
Reid and Riege, P.C.
One Financial Plaza
Hartford, CT 06103

Andrew W. Lord
Murtha Cullina LLP
CityPlace 1
185 Asylum Street
Hartford, CT 06103

Eric Bibler
31 Old Hyde Road
Weston, CT 06883

/s/ Carrie L. Larson
Carrie L. Larson

ACTIVE/72955.3/BHEIPLE/2427944v1